

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

HILLSIDE DAIRY, INC., et al.,

Plaintiffs,

v.

A.G. KAWAMURA, Secretary, California
Department of Food &
Agriculture, et al.,

Defendants.

CIV-S-97-1179 GEB JFM

STIPULATION AND ORDER

PONDEROSA DAIRY, et al.,

Plaintiffs,

v.

A.G. KAWAMURA, Secretary, California
Department of Food &
Agriculture, et al.,

Defendants.

CIV-S-97-1185 GEB JFM

1 IT IS HEREBY STIPULATED AND AGREED, by and between the Parties, through their
2 counsel of record, that:

3 **RECITALS**

4 WHEREAS, on May 11, 2004, Summary Judgment was Granted in favor of Plaintiffs;

5 WHEREAS, on May 11, 2004, Judgment was entered pursuant to the Order Granting
6 Plaintiffs Summary Judgment (“Judgment”);

7 WHEREAS, Plaintiffs’ Amended Motion for Attorneys’ Fees and Costs (“Motion”) was
8 submitted on September 27, 2004;

9 WHEREAS, in the Motion, Plaintiffs stated: “Plaintiffs will submit a supplemental
10 declaration to include their attorneys’ fees expended in seeking fees as well as any other adjustment
11 necessary to the total fee request”;

12 WHEREAS, on August 13, 2004, the Parties Stipulated that “Plaintiffs will have to file yet
13 at least one more supplemental declaration regarding the amount and nature of fees associated with
14 the motion to stay, as well as preparing their reply in support of the Motion, and preparing for the
15 September 27, 2004 hearing on the Motion”;

16 WHEREAS, the Parties Stipulated and the Court Ordered on August 16, 2004, that
17 Plaintiffs were permitted to submit — 30 days after the Court Grants the Motion — their First
18 Supplemental Fee Request respecting those fees not included in the original Motion;

19 WHEREAS, on December 9, 2004, the Court entered its Order Granting Plaintiffs’ Motion;

20 WHEREAS, Defendants filed a Notice of Appeal of the May 11, 2004 Judgment;

21 WHEREAS, the parties met with the Ninth Circuit Mediator on December 17, 2004. At
22 the end of the meeting the parties agreed to continue the mediation process by phone and in person
23 during the next several weeks and in order to conserve judicial and party resources the parties
24 jointly requested that the filing of Plaintiffs’ First Supplemental Fee Request be postponed to March
25 30, 2005 and the Court granted their request on December 22, 2004;

26 WHEREAS, the parties had another in-person meeting with the Ninth Circuit Mediator on
27 February 7, 2005. At the end of that meeting the parties agreed to continue the mediation process,
28 which involved further discussions. In order to conserve judicial and party resources the parties

1 jointly requested that the filing of Plaintiffs' First Supplemental Fee Request be postponed to June
2 10, 2005 and this Court granted that motion on February 11, 2005.

3 WHEREAS, the parties were continuing discussions beyond June 10, 2005 and again in
4 order to conserve judicial and party resources the parties jointly requested that the filing of
5 Plaintiffs' First Supplemental Fee Request be postponed to August 31, 2005 and this Court granted
6 that motion on May 17, 2005.

7 WHEREAS, as part of the Ninth Circuit mediation process the parties have reached an
8 agreement that would resolve the ongoing litigation. However, the agreement does not become
9 final until certain fixed conditions precedent have been fulfilled. To give the parties time to bring
10 about a final settlement and in order to conserve judicial and party resources, therefore, the parties
11 again jointly request that the filing of Plaintiffs' First Supplemental Fee Request be postponed to
12 October 14, 2005.

13 WHEREAS, by entering into this Stipulation, Plaintiffs' do not waive the right to file their
14 First Supplemental Fee Request, and further supplemental materials should they be necessary, and
15 Defendants do not waive their right to oppose any such request.

16 WHEREAS, this Stipulation is expressly conditioned upon and dependent upon the Court
17 signing and entering this Stipulation as an Order; and THEREFORE:

18 **STIPULATION & ORDER**

19 Plaintiffs are permitted to file their First Supplemental Fee Request on or before October
20 14, 2005; and THEREFORE:

21 **IT IS SO STIPULATED.**

22 Dated: August 19, 2005

23 Bill Lockyer
Attorney General of the State of California

24
25 By: /s/ Linda Berg
LINDA BERG
26 Deputy Attorney General
Attorneys for Defendants
27 California Secretary of Food & Agriculture, *et al.*
28

1 Dated: August 19, 2005

Thelen Reid & Priest LLP

2
3 By: /s/ John Foust
4 JOHN FOUST
5 Attorneys for Plaintiffs
Hillside Dairy, Inc., *et al.* (No. 97-1179)

6 Dated: August 19, 2005

Law Offices of John H. Vetne

7
8 By: /s/ John H. Vetne
9 JOHN H. VETNE
10 Attorneys for Plaintiffs
Ponderosa Dairy, *et al.* (No. 97-1185)

11 I, John Foust, hereby attest that I have obtained the authorization of the attorney signatories
12 to this document to electronically sign on their behalf.

13 Dated: August 19, 2005

Thelen Reid & Priest LLP

14
15 By: /s/ John Foust
16 JOHN FOUST
17 Attorneys for Plaintiffs
Hillside Dairy, Inc., *et al.* (No. 97-1179)

18
19 **AS STIPULATED, IT IS SO ORDERED.**

20
21 DATED: August 19, 2005

/s/ Garland E. Burrell, Jr.
GARLAND E. BURRELL, JR.
United States District Judge